

**EXHIBIT A**

*Exhibit A*

State of New York - Department of State  
Division of Corporations

Party Served:  
GMRI, INC.

Plaintiff/Petitioner:  
RUSS, BRITT ALEXIS

C/O CORPORATE CREATIONS NETWORK INC  
15 NORTH MILL ST  
NYACK, NY 10960

Dear Sir/Madam:

Enclosed herewith is a legal document which was served upon the Secretary of State on 12/27/2006 pursuant to SECTION 306 OF THE BUSINESS CORPORATION LAW. This copy is being transmitted pursuant to such statute to the address provided for such purpose.

Very truly yours,  
Division of Corporations

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
BRITT ALEXIS RUSS

Plaintiff

-against-

GMRI INC., 5 TIMES SQUARE NYC/5, a  
subsidiary of Darden Restaurants, Inc., d/b/a  
Red Lobster, and JOHN DOE, said name being  
fictitious and intended to denominate the defendants'  
employees more fully described herein

Defendant  
-----X

Index No. 118621/06  
Plaintiff designates  
New York County  
as the place of trial

The basis of venue is  
Place of Incident

**S U M M O N S**

Plaintiff resides at  
125 Gates Avenue  
Montclair, NJ 07042

To the above named defendant(s):

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to  
serve a copy of your answer, or, if the complaint is not served with this summons to serve a  
notice of appearance, on the plaintiff's attorneys within 20 days after the service of this  
summons, exclusive of the day of service (or within 30 days after the service is complete if  
this summons is not personally delivered to you within the State of New York); and in case of  
your failure to appear or answer, judgment will be taken against you by default for the relief  
demanded in the complaint.

Dated: Bronx, New York  
November 16, 2006

PHILIP NEWMAN, P.C.  
Attorney for Plaintiff  
Office & P.O. Address  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

NEW YORK  
COUNTY CLERK'S OFFICE  
DEC 15 2006  
NOT COMPARED  
WITH COPY FILED

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X Index No.  
BRITT ALEXIS RUSS

Plaintiff

VERIFIED COMPLAINT

-against-

GMRI INC., 5 TIMES SQUARE NYC/5, a  
subsidiary of Darden Restaurants, Inc., d/b/a  
Red Lobster, and JOHN DOE, said name being  
fictitious and intended to denominate the defendants'  
employees more fully described herein

Defendant

-----X

Plaintiff by her attorney, Philip Newman, Esq., complaining of the defendant,

respectfully allege as follows:

*DIB*  
1. Defendant is a domestic corporation authorized to do business in the State of New York.

*DKT*  
2. At all relevant times, the [defendant was and still is the owner] and in control [of a  
"Red Lobster restaurant" located at 5 Times Square, New York, New York.]

*DKT*  
3. On June 26, 2006, plaintiff was a patron in defendant's restaurant waiting to be seated.

*DKT*  
4. On June 26, 2006, while plaintiff was a patron in defendant's restaurant as aforesaid one of defendant's employee who was standing on an upper level dropped or negligently positioned a tray resulting in its falling onto plaintiff's head who was standing on the level below defendant's employee.

*DKT*  
5. Said occurrence was due to no fault or want of care on the part of the plaintiff but was caused fully and solely by the negligence of the defendant and plaintiff was wholly free

*But admit [1][2]*

from any negligence contributing to said occurrence.

D.I.B. 6. That as a result of the aforesaid occurrence, plaintiff sustained serious personal injuries, experienced great pain, suffered and continues to suffer and has been incapacitated and will continue to be incapacitated for a long period of time.

D.K.T. 7. §1600 of the CPLR does not apply, or in the alternative, all of the exceptions to §1600 of the CPLR do apply.

D.K.T. 8. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION FOR  
NEGLIGENT HIRING AND RETENTION**

R.P. 9. Plaintiff repeats and realleges each and every allegation of the complaint herein marked and numbered "1" through "8" with the same force and effect as herein set forth in detail.

D.I.B. 10. That the defendant negligently hired, retained and trained its employees who were incompetent and the defendant had knowledge of same and the retention of these individuals by defendant was negligent.

D.K.T. 11. That defendant's employee was negligent in the happening of this event and defendant, is legally responsible for the negligence under the theory of Respondent Superior.

D.I.B. 12. The defendant's employee's conduct was wilful, wanton, reckless, malicious and/or exhibited a gross indifference to and a callous disregard for human life, safety and the rights of others, and more particularly the rights, life and safety of the plaintiff herein.

D.K.T. 13. This occurrence happened as a result of the negligence of the defendants.

*DK* 14. §1600 of the CPLR does not apply, or in the alternative, all of the exceptions to §1600 of the CPLR do apply.

*DK* 15. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendant in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction on each cause of action.

Dated: Bronx, New York  
November 16, 2006

Yours, etc.,

PHILIP NEWMAN, P.C.  
Attorney for Plaintiff  
Office & P.O. Address  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

ATTORNEY'S VERIFICATION

State of New York )  
County of Bronx )s.:

The undersigned, an attorney admitted to practice in the Courts of New York State, shows:

That deponent is the attorney of record for the plaintiff in the within action.

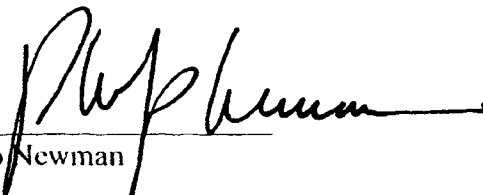
That deponent has read the foregoing Complaint and knows the contents thereof. The same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

That this verification is made by deponent and not by the plaintiff, is due to the fact that plaintiffs reside in a different County than where your deponent maintains his files and offices.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: All records pertaining to the herein matter are in your deponent's files in his office.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: Bronx, New York  
November 16, 2006

  
Philip Newman

===== NOTICE OF ENTRY =====

Sir: Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Dated.

Yours, etc.,

**PHILIP NEWMAN, P.C.**

Attorney for

Office and Post Office Address  
860 Grand Concourse  
Bronx, NY 10451

To:

Attorney(s) for

===== NOTICE OF SETTLEMENT =====

Sir: Please take notice that an order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named Court, at

on 19

at M.

Dated.

Yours, etc.,

**PHILIP NEWMAN, P.C.**

Attorney for

Office and Post Office Address  
860 Grand Concourse  
Bronx, NY 10451

To:

Attorney(s) for

Index No.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

BRITT ALEXIS RUSS

Plaintiff

-against-

GMRI INC., 5 TIMES SQUARE NYC/5, a subsidiary of Darden Restaurants, Inc., d/b/a Red Lobster, and JOHN DOE, said name being fictitious and intended to denominate the defendants' employees more fully described herein

Defendants

===== SUMMONS AND VERIFIED COMPLAINT =====

Signature (Rule 130-1.1a)

Print name beneath -

**PHILIP NEWMAN, P.C.**

Attorney(s) for

Office and Post Office Address  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated.

Attorney(s) for

SERVICO 335

JAN 4 2007 AM 11:41

200612280292

Exhibit

**B**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
BRITT ALEXIS RUSS,  
Plaintiff,

INDEX NO.:118621/06

-against-

GMRI, INC., 5 TIMES SQUARE NYC/5, a  
Subsidiary of Darden Restaurants, Inc. d/b/a  
Red Lobster, and JOHN DOE, said name being  
Fictitious and intended to denominate the  
Defendants' employees more fully described  
Herein,

Defendants.

NOTICE OF APPEARANCE  
AND DEMAND FOR AN  
AD DAMNUM

-----X

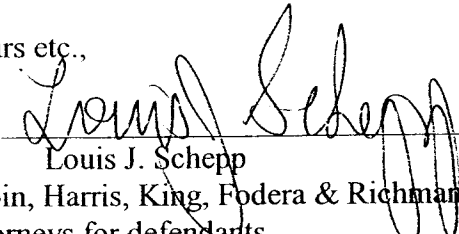
PLEASE TAKE NOTICE that defendant GMRI, Inc. d/b/a Red Lobster s/h/a  
“GMRI, INC.”, and “5 TIMES SQUARE NYC/5, a Subsidiary of Darden Restaurants,  
Inc. d/b/a Red Lobster” appears in this action by the undersigned attorneys and that all  
papers are to be served upon the undersigned attorneys at their office located at One  
Battery Park Plaza, 30th floor, New York, NY 10004.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR Section 3017(c),  
defendants hereby demand that plaintiff, serve upon the undersigned, within fifteen (15)  
days from the date of service hereof, a supplemental demand for relief setting forth the  
total damages to which plaintiff deems herself entitled.

Dated: New York, New York  
January 9, 2007

Yours etc.,

BY:

  
Louis J. Schepp  
Robin, Harris, King, Fodera & Richman  
Attorneys for defendants  
GMRI, Inc. d/b/a Red Lobster  
One Battery Park Plaza, 30<sup>th</sup> floor  
New York, NY 10004-1437  
(212) 487-9701

To: Philip Newman, P.C.  
Attorneys for plaintiff  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

Exhibit  
c

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
BRITT ALEXIS RUSS

Plaintiff

-against-

GMRI INC., 5 TIMES SQUARE NYC/5, a  
subsidiary of Darden Restaurants, Inc., d/b/a  
Red Lobster, and JOHN DOE, said name being  
fictitious and intended to denominate the defendants'  
employees more fully described herein

Defendant  
-----X

Index No. 118621/06

Plaintiff designates  
New York County  
as the place of trial

The basis of venue is  
Place of Incident

**SUPPLEMENTAL  
SUMMONS**

Plaintiff resides at  
125 Gates Avenue  
Montclair, NJ 07042

To the above named defendant(s):

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to  
serve a copy of your answer, or, if the complaint is not served with this summons to serve a  
notice of appearance, on the plaintiff's attorneys within 20 days after the service of this  
summons, exclusive of the day of service (or within 30 days after the service is complete if  
this summons is not personally delivered to you within the State of New York); and in case of  
your failure to appear or answer, judgment will be taken against you by default for the relief  
demanded in the complaint.

Dated: Bronx, New York  
January 24, 2007.

PHILIP NEWMAN, P.C.  
Attorney for Plaintiff  
Office & P.O. Address  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X Index No. 118621/06

BRITT ALEXIS RUSS

Plaintiff

**AMENDED  
VERIFIED COMPLAINT**

-against-

GMRI INC., 5 TIMES SQUARE NYC/5, a  
subsidiary of Darden Restaurants, Inc., d/b/a  
Red Lobster, and JOHN DOE, said name being  
fictitious and intended to denominate the defendants'  
employees more fully described herein

Defendant

-----X

Plaintiff by her attorney, Philip Newman, Esq., complaining of the defendant,  
respectfully allege as follows:

- DKI  
DEB  
BRI  
DKI  
DKI  
DEB
1. Plaintiff is over the age of 18 years and a resident of the State of New York.
  2. The accident complained of herein occurred in New York County.
  3. Defendant is a domestic corporation authorized to do business in the State of New York.
  4. At all relevant times, [the defendant was and still is the owner] and in control [of a "Red Lobster restaurant" located at 5 Times Square, New York, New York.]
  5. On June 22 2006, plaintiff was a patron in defendant's restaurant waiting to be seated.
  6. On June 22, 2006, while plaintiff was a patron in defendant's restaurant as aforesaid one of defendant's employee who was standing on an upper level dropped or negligently positioned a tray resulting in its falling onto plaintiff's head who was standing on the level below defendant's employee.

DTB 7. Said occurrence was due to no fault or want or care on the part of the plaintiff but was caused fully and solely by the negligence of the defendant and plaintiff was wholly free from any negligence contributing to said occurrence.

DTB 8. That as a result of the aforesaid occurrence, plaintiff sustained serious personal injuries, experienced great pain, suffered and continues to suffer and has been incapacitated and will continue to be incapacitated for a long period of time.

DTB 9. §1600 of the CPLR does not apply, or in the alternative, all of the exceptions to §1600 of the CPLR do apply.

DKI 10. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION FOR  
NEGLIGENT HIRING AND RETENTION**

R+R 11. Plaintiff repeats and realleges each and every allegation of the complaint herein marked and numbered "1" through "10" with the same force and effect as herein set forth in detail.

DTB 12. That the defendant negligently hired, retained and trained its employees who were incompetent and the defendant had knowledge of same and the retention of these individuals by defendant was negligent.

DTB 13. That defendant's employee was negligent in the happening of this event and defendant, is legally responsible for the negligence under the theory of Respondent Superior.

DTB 14. The defendant's employee's conduct was wilful, wanton, reckless, malicious and/or exhibited a gross indifference to and a callous disregard for human life, safety and the rights of others, and more particularly the rights, life and safety of the plaintiff herein.

15. This occurrence happened as a result of the negligence of the defendants.

16. §1600 of the CPLR does not apply, or in the alternative, all of the exceptions to §1600 of the CPLR do apply.

17. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendant in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction on each cause of action.

Dated: Bronx, New York  
January 24, 2007.

Yours, etc.,

PHILIP NEWMAN, P.C.  
Attorney for Plaintiff  
Office & P.O. Address  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

**ATTORNEY'S VERIFICATION**

State of New York )  
County of Bronx )s.:

The undersigned, an attorney admitted to practice in the Courts of New York State, shows:

That deponent is the attorney of record for the plaintiff in the within action.

That deponent has read the foregoing Complaint and knows the contents thereof. The same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

That this verification is made by deponent and not by the plaintiff, is due to the fact that plaintiffs reside in a different County than where your deponent maintains his files and offices.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: All records pertaining to the herein matter are in your deponent's files in his office.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: Bronx, New York  
January 24, 2007.

  
Philip Newman

===== NOTICE OF ENTRY =====

Sir: Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

**PHILIP NEWMAN, P.C.**

Attorney for

Office and Post Office Address  
860 Grand Concourse  
Bronx, NY 10451

To:

Attorney(s) for

===== NOTICE OF SETTLEMENT =====

Sir: - Please take notice that an order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named Court, at

19

M.

Dated,

Yours, etc.,

**PHILIP NEWMAN, P.C.**

Attorney for

Office and Post Office Address  
860 Grand Concourse  
Bronx, NY 10451

To:

Attorney(s) for

Index No. 118621/06

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

**BRITT ALEXIS RUSS**

Plaintiff

-against-

GMRI INC., 5 TIMES SQUARE NYC/5, a subsidiary of Darden Restaurants, Inc., d/b/a Red Lobster, and JOHN DOE, said name being fictitious and intended to denominate the defendants' employees more fully described herein

Defendants

===== AMENDED SUMMONS AND AMENDED VERIFIED COMPLAINT =====

Signature (Rule 130-1.1a)

Print name beneath -

**PHILIP NEWMAN, P.C.**

Attorney(s) for Plaintiff

Office and Post Office Address  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

To

Attorney(s) for

Service of a copy of the within  
is hereby admitted.

Dated..

Attorney(s) for

Exhibit  
Exhibit D

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
BRITT ALEXIS RUSS,

Plaintiff,

Index No.: 118621/06

-against-

VERIFIED ANSWER TO  
PLAINTIFF'S AMENDED  
VERIFIED COMPLAINT

GMRI, INC., 5 TIMES SQUARE NYC/5, a subsidiary  
Of Darden Restaurants, Inc. d/b/a Red Lobster, and  
JOHN DOE, said name being fictitious and intended to  
Denominate the defendants' employees more fully  
Described herein,

Defendant.

-----X

Defendant, GMRI, Inc. d/b/a Red Lobster s/h/a "GMRI, INC., 5 TIMES SQUARE  
NYC/5, a Subsidiary of Darden Restaurants, Inc. d/b/a Red Lobster" by its attorneys Robin,  
Harris, King, Fodera & Richman, answering the amended verified complaint of the plaintiff  
herein:

FIRST: Denies any knowledge or information sufficient to form a belief as to each and  
every allegation contained in paragraphs designated "1", "5", "10" of the amended verified  
complaint.

SECOND: Denies upon information and belief each and every allegation contained in  
paragraphs designated "3", "6" through "9" of the complaint.

THIRD: Denies any knowledge or information sufficient to form a belief as to each and  
every allegation contained in paragraphs designated "4" of the amended verified complaint but  
admits that defendant was and still is the owner of a Red Lobster restaurant located at 5 Times  
Square, New York, New York.

ANSWERING THE SECOND CAUSE OF ACTION

FOURTH: Defendant repeats and reiterates all of the admissions and denials contained in the foregoing answer with reference to those paragraphs repeated and reiterated in paragraph designated "11" of the amended verified complaint.

FIFTH: Denies upon information and belief each and every allegation contained in paragraphs designated "12" through "17" of the amended verified complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE, DEFENDANT  
ALLEGES UPON INFORMATION AND BELIEF:

SIXTH: That any damages allegedly sustained by the plaintiff were contributed to in whole or in part by the plaintiff's failure to mitigate said damages, and if any judgment is recovered against the defendant, said judgment should be apportioned and reduced by the percentage of the plaintiff's failure to mitigate said damages.

WHEREFORE, defendant GMRI, Inc. d/b/a RED LOBSTER demands judgment dismissing the amended verified complaint of the plaintiff, together with the costs and disbursements of the defense of this action or, in the alternative, reducing any award by the amount attributable to plaintiff's failure to mitigate her damages..

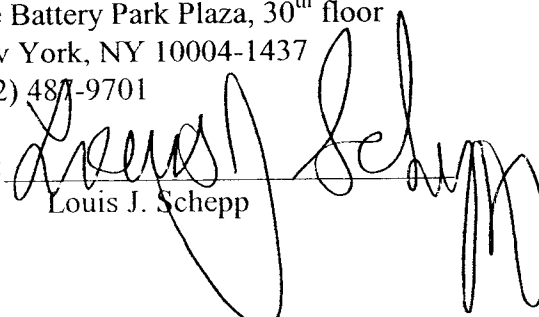
Dated: New York, New York  
March 27, 2007

Yours etc.,

Robin, Harris, King, Fodera & Richman  
Attorneys for defendant, GMRI, Inc.  
d/b/a Red Lobster  
One Battery Park Plaza, 30<sup>th</sup> floor  
New York, NY 10004-1437  
(212) 487-9701

BY:

Louis J. Schepp



To: Philip Newman, P.C.  
Attorney for plaintiff  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

ATTORNEY'S VERIFICATION

LOUIS J. SCHEPP, pursuant to the CPLR, affirms and says that he is an attorney with ROBIN, HARRIS, KING, FODERA & RICHMAN the attorneys for the defendant GMRI, INC. d/b/a RED LOBSTER. in the within action; that the foregoing answer is true to his own knowledge except as to matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

That this answer is verified by your affirmant and not by the defendant because the defendant, upon information and belief:

  X   is a foreign corporation, or

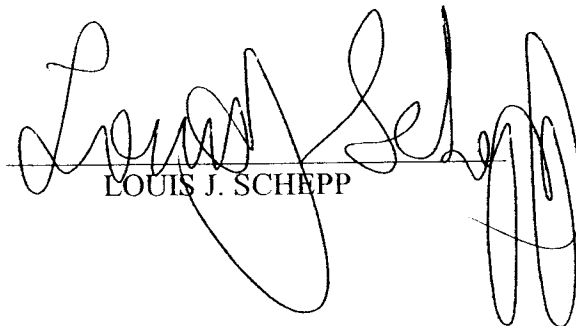
  X   is a corporation, none of whose officers are within the county where ROBIN, HARRIS, KING, FODERA & RICHMAN, have their office, or

       is an individual not within the county where ROBIN, HARRIS, KING, FODERA & RICHMAN, have their office,

       is a partnership, none of the partners being in the County where ROBIN, HARRIS, KING, FODERA & RICHMAN have their office,

and the source of affirmant's information, and the grounds for his belief as to all the matters not stated upon his knowledge, are the records and reports of investigation kept in the office of the attorneys for the third-party defendant in connection with this action and the accident out of which this action arises.

Dated: New York, New York  
March 27, 2007

  
LOUIS J. SCHEPP

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
BRITT ALEXIS RUSS,

Plaintiff,

Index No.: 118621/06

-against-

GMRI, INC., 5 TIMES SQUARE NYC/5, a subsidiary  
Of Darden Restaurants, Inc. d/b/a Red Lobster, and  
JOHN DOE, said name being fictitious and intended to  
Denominate the defendants' employees more fully  
Described herein,

Defendant.

DEMAND FOR VERIFIED  
BILL OF PARTICULARS

-----X

PLEASE TAKE NOTICE, that defendant, GMRI, Inc. d/b/a Red Lobster hereby demands  
that the plaintiff serve on the undersigned, within thirty (30) days from the date of service hereof  
a verified bill of particulars with respect to the following matters:

- 1) Set forth plaintiff's full name and any other names by which plaintiff has been known
- 2) Set forth plaintiff's birthday and place of birth.
- 3) Set forth plaintiffs residences and plaintiff's residence on the day of the occurrence alleged in  
the compliant.
- 4) Set forth the date and approximate time of day of the occurrence
- 5) Set forth plaintiff's location at the time of the occurrence
- 6) Set forth the acts or omissions constituting the negligence claimed.
- 7) Set forth the acts or omissions constituting the willful conduct of defendant's employee.
- 8) Set forth the acts or omissions constituting the wanton conduct of defendant's employee.
- 9) Set forth the acts or omissions constituting the reckless conduct of defendant's employee.
- 10) Set forth the acts or omissions constituting the malicious conduct of defendant's employee.

- 11) Set forth the acts or omissions of defendant's employee which exhibited a gross indifference to human life, safety and the rights of others.
- 12) Set forth the acts or omissions of defendant's employee which exhibited a callous disregard for human life, safety and the rights of others
- 13) Set forth the injuries claimed to have been sustained in the occurrence and identify those injuries that are alleged to be permanent.
- 14) Set forth those injuries claimed to be an aggravation or exacerbation, and identify those health care professional who had treated the plaintiff prior to the incident for the injury aggravated or exacerbated and set forth when.
- 15) Set forth the time period plaintiff was confined to:
  - a) A hospital, (and if so, set forth the name of the hospital,)
  - b) Home and/or
  - c) Bed
- 16) Set forth the dates, place, cost and by whom plaintiff received health care treatment with regard to injuries claimed to have been sustained in the occurrence.
- 17) Set forth plaintiff's occupation at the time of the occurrence, and if employed, the name and address of the employer, the job title and salary.
- 18) Set forth the length of time, if any, plaintiff was or is expected to be incapacitated from her employment or occupation.
- 19) Set forth the period of time plaintiff suffered from
  - a) A total disability and/or
  - b) A partial disabilityAnd if it is claimed that the disability is permanent so state.

- 20) Set forth whether plaintiff seeks to recover any part of the cost of medical care, dental care, custodial care, rehabilitation services, loss of earnings or other economic loss alleged to have been sustained herein and if so, set forth for each item, how much and if plaintiff received a collateral source payment for such loss set forth the collateral source provider.
- 21) If it will be claimed that defendant violated any statute, ordinance, rule or regulation,
- a) specifically identify each statute, ordinance, rule or regulation that was allegedly violated and
  - b) specify to whom such violation is attributed.
- 22) Set forth which exception to CPLR §1600 et seq. plaintiff alleges applies.
- 23) Set forth whether actual or constructive knowledge is claimed; with regard to the allegation that defendant had “knowledge,” as alleged in paragraph 10 of the complaint.
- a) if constructive knowledge is claimed, state for how long
  - b) if actual knowledge is claimed, state by whom and how acquired and
    - i) whether oral or
    - ii) written and if written, identify the document
- 24) Set forth the amount of special damage claimed to have been sustained for:
- a) Physicians’ services
  - b) Medical supplies
  - c) Loss of earnings
  - d) Hospital expenses
  - e) Nurses services.
  - f) Any other item of special damages, specifying the amount and category of special damages

25) Set forth the amount of, time period of, and the method of calculation for any future special

damages claimed for:

- a) Physicians' services
- b) Medical supplies
- c) Loss of earnings or loss of earning capacity.
- d) Hospital expenses
- e) Nurses services
- f) Any other item of special damages, specifying the amount and category of special damages.

26) Set forth the specific amount of damages sought by plaintiff.

Dated: New York, New York  
January 12, 2007

Yours etc.,

Robin, Harris, King, Fodera & Richman  
Attorneys for defendant, GMRI, Inc.  
d/b/a Red Lobster  
One Battery Park Plaza, 30<sup>th</sup> floor  
New York, NY 10004-1437  
(212) 487-9701

To: Philip Newman, P.C.  
Attorney for plaintiff  
860 Grand Concourse  
Bronx, NY 10451  
(718) 585-3512

Exhibit E

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X Index No. 118621/06  
BRITT ALEXIS RUSS

Plaintiff

**VERIFIED BILL OF  
PARTICULARS**

-against-

MAY 04 2007

GMRI INC., 5 TIMES SQUARE NYC/5, a  
subsidiary of Darden Restaurants, Inc., d/b/a  
Red Lobster, and JOHN DOE, said name being  
fictitious and intended to denominate the  
defendants' employees more fully described  
herein

Defendant

-----X

Plaintiff by her attorney, Philip Newman, Esq., as and for her verified bill of  
particulars, respectfully alleges as follows:

1. Britt Alexis Russ
2. 11/30/70
3. 125 Gates Avenue, Montclair, New Jersey
4. June 22, 2006 at approximately 7:00 p.m.
5. Plaintiff was in the waiting area of defendant's Red Lobster Restaurant  
at 5 Times Square, New York, New York.
6. On June 22, 2006, while plaintiff was a patron in defendant's restaurant,  
one of defendant's employees who was standing on an upper level dropped or  
negligently positioned a tray resulting in its falling onto plaintiff's head while she  
was waiting to be seated at the level below.

7-12. See "6" above. In addition, plaintiff reserves the right to supplement this response subsequent to defendant's deposition.

13. Plaintiff suffered rotator cuff tear right side; bursitis; shoulder impingement; labrum tear; On February 28, 2007, plaintiff had debridement of the rotator; bursectomy; excision of the labrum tear and partial acromioplasty; severe neck and back. Plaintiff reserves the right to supplement this bill of particulars when further medical information becomes available, and relies also on any and all injuries that are mentioned in the medical reports and/or hospital records submitted herewith, or that will be submitted in the future or if and when counsel for plaintiff is provided with further medical records indicating further injuries not included in this bill of particulars.

14. The plaintiff previously suffered injuries to her neck, back and shoulder. The defendant's negligence has caused an exacerbation and aggravation of pre-existing condition.

15. (a-c) N/A

16. Dr. Robert Krinich-19 Beekman Street, New York, New York; Aneekah G. Simmons-1355 Broad Street, Clifton, NJ 07013.

17. Miller Tabak & Co., LLC- 331 Madison Avenue, New York, NY (10017); Manager/Supervisor and Trader; annual salary \$80,000.

18. Plaintiff was out of work 12 days.

19. Plaintiff was totally disabled for five days; Plaintiff remains partially disabled.

20. To date plaintiff has had out of pocket expenses in the amount of \$761.24 and continuing.

21. N/A

22. N/A

23. Upon information and belief, defendant did not properly interview the particular employee and or train the particular employee in order to prevent the happening of the accident. The defendant inviting individuals such as plaintiff to enter remain and otherwise congregate on its premises took no or inadequate steps to train the subject employee so as to prevent the subject employee from dropping the platter on plaintiff's head.

24. All medical bills were paid by plaintiff's private insurance.

25. Plaintiff is unable to respond to these requests at present as the effects of the surgery are not yet known.

26. \$2,000.000.00

Dated: Bronx, New York  
April 3, 2007.

Yours, etc.,

PHILIP NEWMAN, P.C.  
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(718) 585-3512

To: Robin, Harris, King, Fodera &  
Richman, Esqs.  
Attorneys for Defendant  
One Battery Park Plaza  
30<sup>th</sup> Fl.  
New York, NY 10004-1437  
(212) 487-9701

VERIFICATION:

State of New York )  
County of Bronx )ss.:

The undersigned, being duly sworn deposes and says: That deponent is the plaintiff herein; that deponents have read the foregoing Bill of Particulars and know the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief as to those matters deponent believe it to be true.



Sworn to before me this  
3rd day of March 2007  
April



NOTARY PUBLIC, State of New York  
#0845964, Qualified in Suffolk County  
Certificate Filed in New York County  
Commission Expires 04-31-2010